
**REGULAR MEETING MINUTES
CITY COMMISSION**

May 12, 2005

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Quesinberry at 6:30 p.m. in City Hall Commission Chambers. The invocation and Pledge of Allegiance were given.

PRESENT: Mayor Jack Quesinberry, Commissioners Theo Graham, Mildred Dixon (arrived at 6:33 p.m.), and Carol Nichols

Also Present: Acting City Manager Mike Bollhoefer, City Attorney Lionel Rubio, City Clerk Kathy Golden, Assistant to the City Manager Marshall Robertson, Police Chief George Brennan, City Planner Mark Cechman, Assistant Utilities Director Bart Patria, Acting Finance Director Brian Strobeck, Information Technology Director Bob Reilly, Public Works Director Bob Smith, Fire Chief John Williamson, Recreation Director Jay Conn, Human Resources Director Frank Gilbert, Building Official Willie Herbert, West Orange Times reporter Michael Laval, and Orlando Sentinel reporter Sandra Mathers

1. **APPROVAL OF MINUTES**

Motion by Commissioner Nichols to postpone approving the regular meeting minutes of April 28, 2005 until May 26, 2005. Seconded by Commissioner Graham and carried unanimously 3-0.

Commissioner Dixon arrived at this time.

2. **PRESENTATION**

A. **Heart Ready Award from the American Heart Association**

Alice Forthman, R.N. with Florida Hospital, presented Fire Chief Williamson, on behalf of the City of Winter Garden with the first award in the tri-county area for training and strategic placement of AED units. All residents should be very proud of their city receiving this very prestigious award.

3. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE**

A. **Ordinance 05-27:** VACATING THE WESTERLY 5 FEET OF THE TEN FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE EASTERNMOST PROPERTY LINE, LESS 5 FEET ON THE NORTHERN AND SOUTHERN PROPERTY LINES OF 209 TRADITIONS DRIVE, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE
City Attorney Lionel Rubio read Ordinance 05-27 by title only. Mayor Quesinberry opened the public hearing. City Planner Cechman stated that the property owners desire to install a swimming pool in their back yard and comply with the Zoning Code but there is a large easement to the rear and they are requesting that a portion of the easement be vacated. Staff has reviewed the request and recommends approval of the request. Releases by all interested parties have been provided in the agenda package. Hearing no other comments, the public hearing was closed. **Motion by Commissioner Graham to approve Ordinance 05-27. Seconded by Commissioner Dixon and carried unanimously 4-0.**

4. **REGULAR BUSINESS**

A. **Request authorization to allocate recreation staff to assist the Kids Café program, operated by Second Harvest Food Bank of Central Florida, at the Maxey Center**

Acting City Manager Bollhoefer stated staff requests removal of this item because at the last minute staff has received a revised agreement from the Second Harvest Food Bank, which still needs to be reviewed. Commissioner Dixon stated that the program needs to begin as soon as possible as they are waiting for someone to partnership with for some time now. Commissioner Dixon confirmed that staff will meet with Second Harvest and Mr. Whisper to discuss this item further. Recreation Director Conn responded yes. **Motion by Commissioner Dixon to postpone this item. Seconded by Commissioner Nichols and carried unanimously 4-0.**

B. **Request authorization to repair the stormwater pipe under Temple Grove Drive in an amount not to exceed \$40,000**

Public Works Director Smith reported that approximately 2,000 linear feet of old corrugated metal stormwater piping under Temple Grove Drive has failed in several places. Therefore, he is requesting approval to repair the pipe by slip lining it with plastic pipe without digging up about 40 front yards and driveways at a cost not to exceed \$40,000 with the City acting as its own contractor. If approved, this item will be included in the interim budget request. **Motion by Commissioner Graham to approve up to \$40,000 to repair the corrugated stormwater pipe under Temple Grove Drive as requested. Seconded by Commissioner Nichols and carried unanimously 4-0.**

5. **MATTERS OF CONCERN FROM CITIZENS**

James Balderrama, 14315 Hampshire Bay Circle, Winter Garden, FL asked that Richard Mask's application for appointment to the vacant District 1 Commissioner seat be revoked in light of a newspaper article that states he put misinformation about graduating from high school. He also asked the City Commission to remove Mr. Mask from the Planning and Zoning Board pending an investigation into his ethics and morals. What is the City's policy for employees who willingly or unknowingly putting false information on an application for a City position. Who specifically wrote the three proposed ordinances for the Fowler Grove Mall. Asked for all the information on who was involved in all the related studies. Asked if there have been any private meetings by the Mayor or any City Commissioner with the Sembler Company and if so, are there any records of those meetings. **Commissioner Nichols** replied to Mr. Balderrama that he already knows about her meeting with the Semblers. **Commissioner Graham** replied that he has not met with them but did have about a ten-minute discussion with them over the telephone, which he has already disclosed at the Tanner Hall meeting. **Mayor Quesinberry** stated he has not met with them. **Commissioner Dixon** stated she has not met with them but knows of them and she does not need to meet with them about any matter. **Mr. Balderrama** stated that the current zoning is R-1 low-density residential and asked if there were any offers from any of the developers or builders to use the land for anything other than what the land is zoned for. It has been stated that some of the meetings are on public record. According to the gentleman who refers to himself at the Fowlers lawyer, the Fowlers are being forced off their property. According to the April 14, 2005 minutes the Beltway/429 expansion is making the Fowlers leave and asked

someone to explain how people who own private property are being forced to sell their property. **Commissioner Nichols and Mayor Quesinberry** replied that they have not heard of this before. **Commissioner Nichols** stated that she has had discussions with the Bekemeyer family and they have never mentioned this information to her. **Mr. Balderrama** stated that the current Comprehensive Plan for the 175 acres calls for 30 plus 10 acres of possible commercial development and asked if anyone could show him what has been done or has been proposed to fulfill this part of the plan. He also asked what specific efforts have been made by the Commission, City Manager, or Planning and Zoning Board to fill the vacant stores on State Road 50. Asked the Commission if anyone can name one shopping center that has been built in the past 10 years that has been filled and been successful. **Commissioner Graham** replied that the Tri-City Center may have but one vacant store. **Mr. Balderrama** asked if the only successful center, 10 years or older, contains a number of discount stores. What proof can City staff and the Commission provide that the proposed mall will not become a burden to the taxpayers, police, and other city agencies. **Commissioner Dixon** replied that she is not going to predict anything and doubts anyone can but she must plan for future residents because if she doesn't, the same mistakes of the past will go on such as getting nothing but car lots. The ten-year plan shows the growth planned for the area south of SR 50 as does the Comp Plan. **Mr. Balderrama** stated that thousands are moving to the south side of Winter Garden and asked what the City plans are for water, sewer, and most importantly the schools. Recently on CR 535 a youth from Gotha was killed in a tragic car accident in front of the pharmacy. For a number of miles on 535 there are no traffic lights or traffic breaks and he rarely sees the police patrolling the streets. Where is the plan to keep children and others safe? He restated his prior comment that he personally thinks the proposed mall is too big, is ridiculous, and is not being properly planned. He has spoken with three residents who referred to how the Winter Garden Cemetery has separate areas for blacks and whites. He has also heard that Winter Garden citizens were upset about not getting the West Oaks Mall, Best Buy, Lowe's or Target and he suggested they do what he has been told to do, move. They can move closer to those stores. He asked the City Commission to consider the concerns of the citizens of Winter Garden who are here to help the City in any way they can as they have made a huge investment in their home. **Acting City Manager Bollhoefer** responded that he would reply to Mr. Balderrama's questions during his portion of the agenda.

Tom Hareas, Sembler Company, 5858 Central Avenue, St. Petersburg, Florida stated that since the continuance of the Fowler Groves Project on April 14, they have met with approximately 130 residents and are continuing to meet with residents and organized homeowners associations to revise the project. He thanked Commissioner Nichols for taking the initiative to arrange a meeting last night with nine community residents, which was very productive and yielded very important information and ideas. He also thanked staff for their technical information. He invited all residents and city officials to the only available location, Camp Ithiel in Windermere, on Tuesday, May 17th at 6 p.m. The Sembler Company will present a new site plan incorporating input from the neighbors, elected officials and City staff. They will also be sharing a comprehensive traffic analysis, which details the improvements planned for existing roads around the project. There will also be time for questions and answers and he distributed invitations to the City Commission.

The following spoke in opposition to the proposed Sembler mall:

Scott Gifford, 14218 Country Estate Drive, Winter Garden, FL
Deborah Eichen, 14217 Country Estate Drive, Winter Garden, FL
Greg McGowan, 14518 Tabago Bay Drive, Winter Garden, FL
Valerie McGowan, 14518 Tabago Bay Drive, Winter Garden, FL
Julie Gifford, 14218 Country Estate Drive, Winter Garden, FL
Edward Bowman, 18 Laurel Drive, Winter Garden, FL
Gina Balderrama, 14315 Hampshire Bay Circle, Winter Garden, FL

In summary, the citizens addressed the following regarding the proposed Sembler mall:

- The County Lakes Homeowner Association Board, in a non-unanimous decision, did agree to sign a letter of support for the Sembler Company in exchange for a brick masonry wall in the event the proposed mall is built. However, in Mr. Gifford's own opinion, the mall is inconsistent with the population and the residential surroundings.
- What affect will the proposed mall have on the revitalized downtown and Highway 50 merchants?
- Do not rely on the marketing company report as retained by the Sembler Company.
- Area homes were purchased based upon the Comprehensive Plan that shows the area is zoned low-density residential
- If for some reason the mall is approved, make sure it is different than all the other strip malls so the tenants will want to leave in 10 to 15 years after it becomes old
- How can the City reconcile the inconsistencies between the first objective in the Comprehensive Plan and still consider the largest retail mall in central Florida? Uphold the current Comprehensive Plan
- Challenge to both the Sembler Company and the City to discuss making the development a real Winter Park Village, which is 500,000 square feet of retail development
- Traffic is predicted at 57,000 cars a day when International Drive averages 34,000 cars a day
- Physical barriers between neighborhoods and the mall is not enough; transitional use buildings are needed; green space, maybe some townhomes and then some office space to blend in with the area
- Nobody should have to look at the big box stores
- Mega movie theater for 3,600 is too large
- A 60-foot structure within 90 feet of a home
- What is the net cost to taxpayers and has it been compared to other malls?
- Has an independent crime study been done?
- What is actual size of the mall?
- Disney article cannot be compared to this project because Disney was built on wetlands and no one was living there
- West Oaks Mall is a frightening place so why would we want a mall
- Why not put in a park areas, baseball and soccer fields
- Crime
- Traffic and trying to cross CR 535
- Extensive studies are needed to identify related problems

- Make it smaller and make it for the people
- Consider children's safety
- Pictures provided of the back of the Waterford Mall as an example of what will be seen by Winter Garden residents

The following spoke in favor of the proposed mall

Mike Carroll, 1149 Portmoor Way, Winter Garden, FL

Marise Carroll, 1149 Portmoor Way, Winter Garden, FL

Shirley Smith, 21 W. Crest Avenue, Winter Garden, FL

- This is a quality mall project that is good for the City and our future
- 1969 newspaper article distributed, prior to Disney arriving, which is appropriate for today that in part states whenever there is an increase in population, there has to be an increase in retail establishments, services, hospital space, schools, churches, sewage, water, police and fire protection, and housing.
- Traffic problems exist with or without a mall
- Convenient

Shirley Smith, 21 W. Crest Avenue, Winter Garden, FL stated that the City has grown significantly and she has become aware that the City Commission is paid \$300 a month, with the Mayor being paid a little more, and she suggested a pay increase to \$1,000 a month, which apparently takes two years to be implemented.

6. MATTERS FROM CITY ATTORNEY LIONEL RUBIO – Nothing to report.

7. MATTERS FROM ACTING CITY MANAGER MIKE BOLLHOEFER

- Stated he will be providing City Commission with a salary analysis as to how they compare with other cities at the next meeting.
- Stated that he attended a R.A.I.D. meeting last Tuesday night and many of the questions asked by Mr. Baldarrama were asked also asked at the meeting and he has begun compiling the answers. He will provide the responses at a public meeting.
- In response to earlier comments made about traffic on CR 535, a new traffic light will be installed on CR 535 in addition to two other signals. Traffic signals are very important and must go through a difficult process to get them approved.

A. Cemetery Plot Decorations

Advised the City Commission that he has received a complaint regarding unauthorized cemetery decorations, therefore, he advised the City Commission that staff will be moving forward with enforcing the Code and allow people time to remove their personal items. He mentioned this item in case the Commissioners receive any phone calls on this issue.

- The City purchased the old recycling plant and as part of the purchase agreement, the owner was given a temporary lease until he could move into his new building. However, because of the storms, his move has been delayed and he has requested a three-month extension on his lease. Staff does not foresee any problem with granting the extension. **Motion by Commissioner Dixon to approve extending the existing lease with Robert Wallick for three additional months. Seconded by Commissioner Graham and carried unanimously 4-0.**
- Advised that the Home Builder's Association has requested permission to place small signs on the City's right-of-way for their annual Parade of Homes for two weekends (May 13 to 29). Mayor Quesinberry stated that the signs cannot be permitted on SR 50 or on Dillard Street because the City does not control those roads. **Motion by Commissioner Dixon to allow the placement of small signs advertising the annual Parade of Homes event for the two weekends requested, except on SR 50 and Dillard Street. Seconded by Commissioner Nichols and carried unanimously 4-0.**
- Stated that he has submitted his resume to the Mayor and City Commissioners for their consideration and he will be scheduling individual meetings to discuss how to proceed with the City Manager position.

6. MATTERS FROM MAYOR AND COMMISSIONERS

Commissioner Nichols

Asked if the City Manager position would be advertised. Mr. Bollhoefer responded that the City Commission has the option but there are no advertising requirements if it is decided to hire from within.

Proposed Mall: Stated her appreciation of the article submitted and pointed out that the plan has always been to increase retail establishments, services, hospitals, etc. The mall always had 40 acres designated commercial. In her opinion, no one here is totally opposed to the mall, they would just like to see some changes made so it is done properly and downsized. She asked everyone to think about the Magic Kingdom, which is 107 acres and the proposed mall would fit into Disney with another 70 acres to spare, which is very large. Sembler is working very hard with the people and she hopes they are being honest. Commissioner Nichols asked if there would be any violation if the Commissioners attended the workshop scheduled by the Sembler Company. City Attorney Rubio replied that whenever two or more elected officials plan to attend a meeting or workshop where there may be discussion of an item that may come before them, it must be properly noticed and open to the public. He stated that he would be happy to discuss this issue with each individual regarding the steps required to attend the workshop. Commissioner Nichols stated that she asked the question so the public would know why they may not be able to attend. She also addressed comments made by Ms. Smith regarding her acceptance of the crowded roads and that the Commission is trying to alleviate it before it gets worse by working on it in advance, which is the only smart thing to do as a municipal government looking out for the people.

Commissioner Dixon

Stated that she is proud of Winter Garden even with some its inequities and she gave a brief history regarding the changes that have occurred while she was growing up in the area since 1939. She stated that she encourages development and tells those in Orlando to come west because we have the land. She asked everyone to be proud of Winter Garden. She believes the Semblers should work with the people and what is right will be done for Winter Garden and not for just any one section, but for all of Winter Garden. She addressed the comment made earlier about separate cemetery sections based on race, because she knows people are being buried wherever they want just as her family has been. She asked the Commission to consider the Kid's Café that has three part-time employees at four hours a day. Commissioner Dixon stated she is looking forward to converting the old library into a senior center and recommended naming it after Mayor Quesinberry.

Commissioner Graham

Stated he has been in Winter Garden since 1934 but whenever you move to Winter Garden, you become a citizen of Winter Garden. He stated his phone number is published and it does not matter what district you live in, he will relay your concern to the City Manager. Commissioner Graham believes people can disagree and still be agreeable. He is willing to listen to everything and he may not agree with everything, but he will listen. He would like to see the Commission meeting attendance remain this large even when there is not a controversial item. Throughout the years he has suggested, and recently suggested to Mr. Bollhoefer, that ordinances not be read by title only because it does not allow the public to know what exactly what may be adopted. He thinks the attorney, city manager or someone should give a brief scenario of what is being voting on so the people in attendance would know exactly what is being voted on. For example, the ordinance title could state increasing the water rates, but the public would not know whether it was an increase of \$5 or \$10 per 1,000 gallons. He is sure that if the fees went up that much at one time, someone would probably object. The citizens should know what the Commission is deciding. He himself has made mistakes during the 20 years he will have served at the end of this term, as anyone else would have serving that long. The City has grown and has done wonderful and we have made mistakes and have not done what everybody has wanted. He keeps a count of all those he speaks with because the democratic way is that the majority should rule. He stated his appreciation for all those in attendance and asked them to continue to attend and share their opinion on matters.

Mayor Quesinberry

Shared that he was in Washington, D.C. last week, at no cost to the taxpayers, to lobby the Senators regarding increases in the cost of natural gas from \$3 and is now up to almost \$7. He hopes the Senate will pass the bill that has already passed the House of Representatives. While he was there, he was evacuated when an airplane flew into restricted air space, which was quite an experience.

The meeting adjourned at 8:05 p.m. to the next regularly scheduled meeting on May 26, 2005 at City Hall.